

ORIGINAL

FILED

DISTRICT COURT OF GUAM

FEB 1-7 2005 *mbv*

MARY L.M. MORAN  
CLERK OF COURT

(1)

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF GUAM

05-00007

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL ATOIGUE BURGOS  
a/k/a "Mike,"

Defendant.

CRIMINAL CASE NO. \_\_\_\_\_

COMPLAINT

**CONSPIRACY TO IMPORT  
METHAMPHETAMINE  
HYDROCHLORIDE**

[21 U.S.C. §§ 952(a), 960, and 963]

THE UNDERSIGNED COMPLAINANT CHARGES UPON INFORMATION AND BELIEF  
THAT:

Beginning on or about January 2005, and continuing up to and including February 6,  
2005, in the District of Guam and elsewhere, the defendant, MICHAEL ATOIGUE BURGOS  
a/k/a "Mike," and other co-conspirators, both known and unknown, did unlawfully, intentionally,  
and knowingly combine, conspire, confederate and agree with others, to import into the United  
States from a place outside thereof, approximately 116.5 grams of methamphetamine  
hydrochloride, a schedule II controlled substance, in violation of Title 21, United States Code,  
§§ 952(a), 960, and 963.

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1 COMPLAINANT FURTHER STATES:

2 I, Erwin T. Fejeran, being a Task Force Agent with the U.S. Immigration and Customs  
3 Enforcement within the Department of Homeland Security and acting in my official capacity, set  
4 forth the following facts:

5 1. I am a Guam Customs & Quarantine Officer and have been for nine (9) years. I am  
6 currently assigned as a Task Force Agent with the U.S. Immigration and Customs Enforcement  
7 (ICE) for approximately one (1) year and ten (10) months. I make this affidavit in the course of  
8 my official duties. The information contained in this affidavit is based on information and  
9 written reports of law enforcement officers in the course of their official duties.

10 2. On January 28, 2005, U.S. Customs & Border Protection (CBP) Officer A.F. Orozco,  
11 from San Francisco, California, examined by x-ray Express Mail parcel #EE035643990P and  
12 noticed dark strips inside the parcel. Officer Orozco opened the parcel and found clear plastic  
13 straws concealed inside the side wall of the cardboard shipping box. The straws contained a  
14 crystal powder which subsequently tested presumptive positive for methamphetamine with the  
15 use of a Marquis Reagent test kit #902.

16 3. Express Mail parcel #EE035643990P, a brown box wrapped with brown tape  
17 and measuring about 12" X 11" X 4 1/2", was addressed to Patty Leon Guerrero, P.O.  
18 Box 208, Agana, Guam 96932. The sender was listed as Mark A. Bucayo, 45  
19 Wellfareville Street, Mandaluyong City, Philippines. The parcel contained six (6) new T-shirts.  
20 The attached customs declaration read "Printed T-shirt 6-Six pcs."

21 4. The Express Mail Parcel #EEE035643990P was repackaged and mailed to  
22 ICE RAC/Guam for eventual controlled delivery.

23 5. On February 2, 2005, ICE/RAC Guam agents, and Guam Customs and  
24 Quarantine Agency Contraband Enforcement Team (CET) personnel processed the parcel  
25 and determined that the parcel contained 28 straws with suspected methamphetamine and  
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1 weighing approximately 116.5 gross grams. The parcel was repackaged with approximately 94.3  
2 gross grams of "SHAM" and an electronic monitoring device in anticipation of a controlled  
3 delivery.

4 6. On February 3, 2005, law enforcement personnel from the ICE RAC/Guam Agents,  
5 CET personnel, U.S. Postal Inspection Service Task Force, and the Drug Enforcement  
6 Administration, conducted a surveillance of the Hagatna Post Office to monitor the movement of  
7 the package.

8 7. On February 3, 2005, at approximately 12:30 p.m., a male individual picked up the  
9 parcel from the Hagatna Post Office. Surveillance teams followed the male, who was driving a  
10 Mazda Protege, to a residence located on Bihue Street in Ordot Guam. The parcel remained in  
11 the vehicle for 24 hours.

12 8. On February 4, 2005, a charcoal gray Nissan Maxima was observed leaving the Ordot  
13 residence, and surveillance teams determined that the parcel was in the Nissan Maxima, license  
14 plate# ASA 3043. Surveillance teams followed the vehicle to Muna Apartments in Mangilao, and  
15 observed the vehicle park in front of unit A-10 Muna Apartments. After the vehicle departed,  
16 surveillance teams determined that the package remained in the vicinity of Unit A-10.  
17 Surveillance was maintained on the Muna Apartment unit A-10 where electronic surveillance  
18 teams received a constant electronic signal indicating that the package was not opened.

19 9. On February 5, 2005, in an attempt to retrieve the mail parcel, agents approached  
20 Unit A-10 and requested to speak to the occupants of A-10. The resident of A-10 was identified  
21 to be Marilyn R. Cruz. Your affiant asked Cruz if she had received a parcel within the last 24hrs  
22 and if the parcel belonged to her. Cruz immediately directed your affiant to the package which  
23 was located between the couch and the front wall of the apartment unit. Cruz further stated that  
24 the package belonged to her friend MIKE BURGOS who had called her just before arriving at  
25 her apartment asking her if she could hold a package for him. Cruz further stated that she had

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1 asked BURGOS if she would get in trouble for holding the package, to which BURGOS said  
2 "No."

3 10. Attempting to have BURGOS retrieve the package from Cruz, Cruz placed a  
4 consensual call to BURGOS. During the conversation BURGOS told Cruz to look outside her  
5 apartment for vehicles with full face tint because he wanted to make sure that it was clear before  
6 BURGOS picked up the package. BURGOS told Cruz that there was "stash" in the parcel and  
7 that he would give Cruz "4-5 G's" for holding the package. In a later conversation BURGOS told  
8 Cruz to open the package and retrieve one straw and hold the rest until BURGOS picked up the  
9 package. Acting on the instruction of BURGOS, Cruz, under the control of your affiant and  
10 Special Agent John Duenas, opened the parcel. Cruz placed a consensual call to BURGOS, and  
11 told him that she only found the six shirts. BURGOS instructed Cruz to cut the box at the  
12 corners because it was in the seams. BURGOS told Cruz that it was in straws. When Cruz asked  
13 "straws," BURGOS asked if it was Caprisun straws or McDonalds straws. BURGOS told Cruz  
14 to take one straw and to put the parcel under her bed and that BURGOS would pick up the  
15 parcel.

16 11. On February 6, 2005 at about 1:45 p.m., a traffic stop was effectuated where  
17 BURGOS was arrested by ICE/RAC Guam Agents. During the search of BURGOS  
18 approximately 4.5 gross grams of suspected methamphetamine was discovered on BURGOS'  
19 possession.

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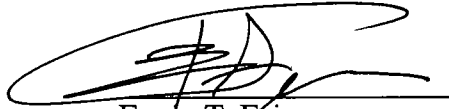
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1 12. Based on the foregoing facts, affiant believes that there is probable cause to believe  
2 that the Defendant committed the offense of conspiracy to import methamphetamine  
3 hydrochloride into Guam in violation of Title 21, United States Code, Sections 952(a), 960, and  
4 963.

5 Dated this 7<sup>TH</sup> day of February, 2005.

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9 Erwin T. Fejeran  
10 Task Force Agent  
U.S. Immigrations and Customs  
Enforcement.

11 SWORN AND SUBSCRIBED TO before me on this 7<sup>th</sup> day of February, 2005.

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14 JOAQUIN V. E. MANIBUSAN  
15 Magistrate Judge  
District Court of Guam